

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

DONNA CURLING, *et al.*

*Plaintiffs,*

v.

BRAD RAFFENSPERGER, *et al.*,

*Defendants.*

CIVIL ACTION

FILE NO. 1:17-cv-2989-AT

**STATE DEFENDANTS' RESPONSE IN OPPOSITION TO  
PLAINTIFFS' JOINT MOTION FOR EXTENSION OF TIME**

Defendants Secretary of State Brad Raffensperger, State Election Board, and the State Election Board Members (collectively, the “State Defendants”) respectfully oppose Plaintiffs’ request for an extension of time. [Doc. 736]. As the State Defendants pointed out to Curling Plaintiffs’ counsel, it is not our normal practice to object to requests for extensions of time. [Doc. 736-1, p. 3]. But as this Court is keenly aware, the State’s budget situation significantly limits the State Defendants’ flexibility at this juncture. *See Black Voters Matter Fund v. Raffensperger*, 1:20-CV-01489-AT, 2020 WL 2079240, at \*3-4 (N.D. Ga. Apr. 30, 2020). State Defendants stand on their objection made necessary by the unfortunate budget crisis, and focus this

response on the incorrect allegation that State Defendants have misled the Court.

Plaintiffs received State Defendants' initial letter outlining all of the issues raised in the motion on this issue on May 9, 2020, almost immediately after State Defendants became aware of the Governor's instructions regarding budget cuts. [Doc. 735, p. 9]. After receiving no response from Coalition Plaintiffs and a set of questions from Curling Plaintiffs that State Defendants had already answered in their letter, State Defendants filed their motion to modify. Plaintiffs then waited until three days before their response was due to ask for an additional two weeks.<sup>1</sup> The parties have simply been unable to reach agreement on this issue and the State's fiscal situation warranted this Court's involvement.

In the light of this, Plaintiffs chose to continue their attacks on opposing counsel, claiming "misrepresentations" and "gamesmanship." [Doc. 736, pp. 2-3]. State Defendants have not misrepresented anything—specifically acknowledging the fact of likely "overlap" in the 10,242 unit list sent by Plaintiffs in the motion. [Doc. 735, p. 8]. As State Defendants

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<sup>1</sup> While Plaintiffs claim they have been "forced" to use the Open Records Act for information, they only served a request on Cobb County the same day as filing their motion for extension of time. See Letter from M. Kaiser, attached as Ex. A.

explained to Plaintiffs, consenting to a two-week extension would cost Georgia taxpayers an “additional \$18,000 in storage costs for the DREs. Our client cannot justify that expense given that the legislature returning to session on June 15 to consider massive cuts to the state budget. We have long raised our concerns about the costs of storage, but we were unable to reach an informal solution. Under any other circumstance, and as our past conduct has demonstrated, we would consent to an extension. The current fiscal situation faced by state policymakers restrains us from doing so now.” [Doc. 736-1, p. 3].

State Defendants urge this Court to quickly resolve the issue of storage of DREs going forward in light of the mootness of Plaintiffs' claims.

Respectfully submitted this 12th day of June, 2020.

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**CERTIFICATE OF COMPLIANCE**

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing **STATE DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' JOINT MOTION FOR EXTENSION OF TIME** has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

*/s/Bryan P. Tyson*  
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